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Appendix C: Michigan Domestic Violence Materials

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Domestic abuse is more than an incident of angry name-calling, or an isolated, one-time slap or shove between intimate partners who are frustrated with one another. ***Domestic abuse is a purposeful pattern of actions carried out over a period of time with the aim of controlling an intimate partner.*** In this chapter, the reader will learn about.

- The nature and dynamics of domestic abuse.
- The tactics of domestic abuse perpetrators.
- Thc effects of abusive tactics on a perpetrator's intimate partner.
- The effects of domestic abuse on children who live in households where it occurs.

1.1 The Impact of Domestic Abuse on Proceedings in Family Court

The issue of domestic abuse presents the following unique challenges in cases in me family court:

- Separation from an abuser does not always end the abuse. Because perpetrators of domestic abuse seek to control their intimate partners, they may resort to (or escalate) physical vio1ence in order to regain control after a separation. Court intervention in abusive behavior may increase the abuser's sense of lost control, and thus the risk of physical violence.

- Domestic abuse perpetrators typically have unlimited access to their intimate partners. A perpetrator may live with the person being abused, or share parental responsibilities with that person. The perpetrator's knowledge of a partner's daily routine or whereabouts may provide opportunities for harassment, intimidation, and physical violence that would not exist in other relationships.

- Domestic abuse typically occurs in the privacy of the home, where the only witnesses are under the abuser's control. (The National Crime Victimization Survey reported that from 1993-1998, almost two-thirds of intimate partner violence against women and about half of such violence against men occurred in the victim's home.) This circumstance may make it difficult for the court to determine what events have occurred in a case.

- Persons subjected to domestic abuse respond to it in a variety of ways that are normal for victims of trauma. These responses may appear illogical to outside observers who do not have the information to discern such behavior as a normal response to abuse.

Court employees can best respond to the above concerns when they are well informed about the nature and dynamics of domestic abuse. This chapter briefly summarizes some of the research findings on this subject. However, the reader should be aware that psychologists and sociologists have only been studying domestic abuse over the last 25 to 30 years. Because this complex field is so new, the following cautions apply:

- Domestic abuse perpetrators can be men or women involved in heterosexual or same-sex intimate relationships. Accordingly, Idaho's laws against domestic abuse apply regardless of the parties' gender or sexual orientation. Nonetheless, the discussion in this chapter will assume a heterosexual relationship with a male abuser unless otherwise indicated. The discussion has been framed in this way because most domestic abuse research has been done in this context. Abuse in same-sex relationships and in heterosexual relationships with female abusers has not been much studied to date, and is not well understood.

- While much research regarding heterosexual relationships with male abusers has been published, many questions remain about this type of domestic violence, and studies of it are ongoing. Accordingly, the reader should be alert for new information that is likely to appear after the publication date of this Resource Book.

1.2 Defining Domestic Violence

Unless stated otherwise, the terms "domestic abuse" or "domestic violence" in this Resource Book mean:

- A purposeful pattern of physically, psychologically, sexually, or emotionally abusive actions;
- Carried out over a period of time;
- With the aim of controlling an intimate partner.

According to this definition, domestic abuse is more than an occasional incident of angry name-calling, or an isolated, one-time slap or shove between a husband and wife who are frustrated with one another. Moreover, domestic abuse is *not* "out-of-control" behavior. Domestic abuse is one person' s effort to control another using a variety of tactics that may involve physical, sexual, emotional, and/or financial abuse. These tactics may include both criminal and non-criminal acts. Criminal acts may include; hitting, choking, kicking, assaulting with a weapon, shoving, scratching, biting, raping, kidnapping, threatening violence, stalking, destroying property; and attacking pets. Non-criminal acts may include: making degrading comments, interrogating children or other family members, threatening or attempting to commit suicide, controlling access to money, and monitoring the partner's time and activities. The abuse may be directed at persons other than the partner (e.g., children) for the purpose of controlling the partner.

NOTE: Idaho Code 39-6303 provides
39-6303. DEFINITIONS.-

(1) "Domestic violence" means the physical injury, sexual abuse or forced imprisonment or threat thereof of a family or household member.
(2) "Family or household member" means spouses, former spouses, persons related by blood or marriage, persons who reside or have resided together, and persons who have a child in common regardless of whether they have been married or have lived together at any time.
(3) "Family dwelling" is any premises in which the petitioner resides.
(4) "Judicial day" means any day upon which court business may be t4ansacted as provided in sections 1-1606 and 1-1607, Idaho Code

1.3 Patterns of Domestic Violence

There is no one way in which domestic violence progresses. Some studies (especially those involving women in shelters or women who sought help after severe abuse) indicate that domestic violence tends to escalate in frequency and seriousness over time, particularly where there is no effective intervention from the justice system or other social institutions.* The existence of this dynamic makes it important to treat domestic violence incidents as a serious threat to the victim from their earliest manifestations - many domestic violence homicides might be prevented with early intervention against abusive behavior .

Researchers have also reported that in some relationships, domestic abuse follows a pattern. Although all relationships do not exhibit patterns, some of the models noted in the research can provide insight into the abused person's responses to the violence.

Some research shows that abused women leave and return to abusers many times before making a final break with the relationship.* This research notes a progression in some situations:

- Some women do not leave after a first assault, even though they disapprove of the violence. They may see the abuse as an aberration, and remain with the abuser to work on the relationship. Alternatively they may be afraid to leave the relationship for fear the violence will escalate.

- If the violence continues, some women may leave for a few days, to gain immediate safety, to think about the relationship, or to get the perpetrator to stop. At this stage, the perpetrator may respond by pursuing the partner, promising to change, apologizing, or trying to reform. Women at this stage may perceive that they have achieved their goal. They may leave and return several times, and try various other strategies (including court intervention) in the hopes of improving the relationship.

- Later, women may leave and return without any hope of change. They may return due to one or more obstacles to leaving permanently, such as lack of housing or job skills.

Researchers noting this progression have observed that the women's behavior at each state is logical, pointing out that ambivalence over leaving an important relationship is normal. Indeed, leaving any important life relationship is a process for most people.

The "cycle of violence" is another general abusive pattern noted in the research. It consists of three stages:*

- During the first stage of the cycle, **tension builds** gradually between the parties. The abuser expresses dissatisfaction and hostility, but not in an extreme or explosive form. The victim "walks on eggshells," trying to placate the abuser. The victim may succeed for a time, which reinforces an unrealistic belief that it is possible to control the abuser.

- When the tension becomes unbearable, the abuser proceeds to the second stage-the **acute battering incident.** Anything the abuser chooses can be the catalyst for this incident. Unless the abuser decides not to use violence, this incident becomes inevitable without intervention.

- After the abusive incident, a third **loving contrition stage** follows. In this stage, the abuser may express remorse, behave affectionately toward the victim, and promise that the abuse will end. Both partners may sincerely believe that violence will never occur again. The abused party's hopes for the future may be reinforced, based on the abuser's promises or some actual changes in behavior. Each partner may deny or minimize the abuse. The victim may accept the abuser's blame for provoking the abuse, in the erroneous belief that she can prevent future violence.

A third dynamic noted by researchers working with abused individuals is the "Stockholm Syndrome." This dynamic was first noticed in 1973, after hostages in a bank holdup in Stockholm, Sweden, bonded with the captors who had held them for six days. Based on studies of this group and other hostage groups (including battered women), researchers have suggested that bonding to an abuser or captor may be an instinctive survival function for individuals who:

- Perceive a threat to survival and believe that their captor is willing and able to carry out the threat;
- Perceive a small kindness from the captor within the context of the terrifying experience;
- Are isolated from the perspectives of persons other than their captors; and,
- Believe they cannot escape.

The effect of the foregoing conditions on the captive individual has been described as follows:

> "As a result of being traumatized, the victim needs nurturance and protection. Being isolated from others, the victim must turn to her abuser for the needed nurturance and protection if she turns to anyone. If the abuser shows the victim some small kindness, this creates hope in the victim, who then denies her rage at the terror-creating side of the abuser - because this rage would be experienced as overwhelming - and bonds to the positive side of the abuser. With the hope that the abuser will let her live, the victim works to keep the abuser happy, becoming hypersensitive to his moods and needs. To determine what will keep the abuser happy, the victim tries to think and feel as the abuser thinks and feels. The victim therefore (unconsciously) takes on the world view of the abuser. Because so much is at stake, namely her survival, the victim is hypervigilant to the abuser's needs, feelings and perspectives. Her own needs (other than survival), feelings and perspectives must take second p1ace to the abuser's. Also, the victim's needs, feelings and perspectives can only get in the way of the victim doing what she must do to survive: they are, after all, feelings of terror. Therefore, the victim denies her own needs, feelings and perspectives. She sees the captors as the 'good guys' and those trying to win her release (for example parents, police or therapists) as the 'bad guys,' as this is the way her captor sees things. The victim projects the anger of the abuser onto the police, whom she sees as more likely to kill her (or get her killed) than the captors…If the victim is given the opportunity to leave the abuser, she will have an extremely difficult time doing so. Having denied the violent, terrifying side of the abuser as well as her own anger, the victim sees no reason to leave him." Graham and Rawlings, *Bonding with Abusive Dating Partners: Dynamics of Stockholm Syndrome, in Dating Violence: Young Women in Danger,* p 121-122 (Levy, ed, Seal Press, 1991).

1.4 Causes of Domestic Abuse

Many researchers have suggested that domestic abuse is influenced by a combination of social and individual factors. Most characterize it as a pattern of behavior that is learned and chosen by the abuser, and encouraged or discouraged by the abuser's social environment. This section explores the role that various social factors play in the abuser's choice to use violence.

A. The Environment of Violence

This discussion addresses three circumstances noted in the research that are generally present in an environment where domestic violence is occurring.

> Note: The discussion is taken from the following resources: Ganley, *Domestic Violence: The What, Why and Who, as Relevant to Civil Court Cases*, Appendix C., p 9-14, in Lemon, *Domestic Violence and Children: Resolving Custody and Visitation Disputes* (Family Violence Prevention Fund, 1995); Merrill, *Ruling the Exceptions: Same-Sex Battering and Domestic Violence Theory*, p 14-17, in *Violence in Guy and Lesbian Domestic Partnerships* (Renzetti and Miley, ed, Harrington Park Press, 1996); and, Farley, *A Survey of Factors Contributing to Gay and Lesbian Domestic Violence*. p 36-41, in *Violence in Gay and Lesbian Domestic Partnerships, supra*.

1. The perpetrator has learned to abuse.

Domestic violence perpetrators have learned that violence is an effective, legitimate means of controlling their partners. They have learned this lesson by observing violent behavior in others or by

behaving violently on a trial- and- error basis, and discovering that violence is tolerated, or even rewarded. Violent behavior is tolerated in various private and public settings. Familial and societal attitudes that devalue women can contribute to an environment that teaches abuse. The criminal justice system also teaches that abuse is acceptable when it fails to impose appropriate sanctions on violent behavior.

In family division proceedings, courts can create an environment that tolerates domestic violence when they:

- Fail to identify cases where domestic violence is present.
- Fail to address safety concerns in cases where domestic violence is identified.
- Blame the abused party for the abuse rather than holding the abuser accountable for it.
- Issue conflicting domestic relations and personal protection orders; or domestic relations orders that conflict with orders issued in concurrent criminal proceedings.
- Issue mutual protection orders.
- Issue orders that reward abusive behavior.
- Require mediation without regard to the imbalances of power and safety concerns that arise when domestic violence is present.
- Issue vague custody or parenting time orders that can be easily manipulated.
- Require the parties to cooperate in carrying out their parental responsibilities without regard to the imbalances of power and safety concerns that arise when domestic violence is present.
- Issue orders for custody or parenting time that allow the abuser to exercise control over a former partner and the parties' children.

2. The perpetrator has found the opportunity to abuse.

Although violent behavior can be learned from violent family members, most children who witness violent behavior do not become abusive adults. Likewise, the vast majority of men who are exposed to social attitudes that devalue women do not commit acts of violence against their domestic partners. For violence to occur, the perpetrator must also find the opportunity and social permission to "get away with it," and choose to act abusively. Opportunities for domestic violence occur in environments where it is tolerated. Abusers who believe that they will "get away with" violence against their domestic partners will have no motivation to change their: behavior, particularly if they have learned that violence is effective to get them what they want in their intimate relationships. Indeed, social tolerance for domestic violence reinforces the lessons of violence by allowing abusers to succeed in controlling their intimate partners without suffering negative consequences. The criminal justice system plays a critical role in ending opportunities for abuse by treating violence against an intimate partner at le85t as seriously as it treats violence against a stranger.

In family division proceedings, courts can end opportunities for abuse by:

- Restricting abusers ' access to identifying information about their partners who are in hiding.
- Providing a safe environment for persons who come to the courthouse.
- Requiring the abusive party to bear the financial consequences of abuse.
- Issuing custody and parenting time orders with specific provisions that promote safety, including supervised parenting time orders.
- Requiring the abusive party to complete appropriate intervention and demonstrate change before modifying more restrictive orders for parenting time.

3. The perpetrator has chosen to abuse.

Learning and opportunity alone do not produce domestic violence. The third prerequisite to violent behavior is the perpetrator's choice to engage in it. Domestic violence is a choice; it is not "out-of-control" behavior. Common abusive behavior patterns illustrate how abusers calculate their actions to avoid risk to themselves, while maximizing control over their intimate partners. Some abusers injure only those parts of their partners ' bodies that are not readily seen by others. Others batter their partners instead of other people over whom they have no control, such as their employers. Many abusers will destroy their partners' possessions, while leaving their own intact. These behaviors evidence choice, not loss of control.

Courts can play a critical role in discouraging domestic abuse by treating violence between domestic partners at least as seriously as violence between strangers. Indeed, domestic violence may be a more serious threat to the victim and society than stranger violence, for it entails an increased risk of repeat assault on the victim and the potential for long-term harm to children who witness it. When a court consistently and fairly enforces the laws against domestic violence it helps to remove opportunities for violence. When a court's orders hold abusers accountable for the harm they inflict, the court contributes to an environment in which domestic violence is just as unacceptable as any other type of violence. Many abusers will be motivated to stop their violent behavior upon discovering that it will cause them significant legal and social consequences.

B. Factors That May Accompany Domestic Violence

Abusive behavior occurs because the abuser chooses it. Nonetheless, many people (including abusers) erroneously characterize domestic violence as out-of-control behavior caused by circumstances such as alcohol and drug use, stress, unresolved anger, or problems with the relationship. While these factors often accompany domestic violence and may intensify its severity, they do not cause it. The following discussion explores the relationship between these factors and domestic violence.

- Alcohol and drag use

  Researchers generally agree that alcohol and drug use do not cause domestic violence. Although studies show a high correlation between these two behaviors, researchers have rejected a causal connection between them, noting that most abusive men who successfully complete alcohol or drug treatment continue to abuse their partners if the violence is not also addressed separately. Studies have found that alcohol abuse by men is associated with an increased likelihood of injury as a result of domestic violence, and that abusers with a history of heavy drug or alcohol use tend to engage in intensified violence toward their domestic partners. Alcohol and drug use can lower the abuser's inhibitions and provide an excuse for "losing control." Indeed, some abusers admit to using alcohol in certain situations in order to give themselves permission to batter.

  Because alcohol or drug use does not cause domestic violence, effective intervention in cases where the abuser is drug or alcohol dependent must be directed at both the violence and the substance abuse. Because it may intensify the severity of violence, drug and alcohol use is one of the factors to consider in assessing whether the abuser is likely to kill or seriously injure an intimate partner .

- Stress and anger

  Stress and anger are not primary causes of domestic violence. Studies show that many abusers use physical violence in a calculated way, in order to gain compliance, and that abuse occurs when the abuser is not emotionally charged.*1ndeed, an abuser's display of anger may merely be a tactic to intimidate an intimate partner. Moreover, when domestic violence is regarded as a pattern of behavior that unfolds over time, specific irritants or stressors become less mcaningfu1 in explaining the entire pattern.

  Many researchers believe that effective intervention in abusive behavior must focus on the fact that abuse is the sole choice and responsibility of the abuser. Although abusers may benefit from learning stress or anger management skills, they will not cease to abuse unless these skills are taught in the context of a program that regards violence as a choice for which abusers must be held accountable.

- Problems inherent in the relationship

  Abusers frequently escape responsibility for their violent choice by blaming the abuse on their intimate partners. Blaming the relationship is a variation on this theme, because it gives the intimate partner at least partial responsibility for the abuse. However, most people who experience relational difficulties respond to them without violence.. Safe, effective domestic violence interventions recognize that only the abuser has the power to stop the abuse.

  Persons subject to domestic abuse are endangered by interventions that require them to share responsibility for the abuse by working cooperatively with the abuser to resolve the difficulties with

the relationship. Accordingly, couples counseling and family therapy are not appropriate primary interventions for abuse. These interventions may endanger abused persons by putting them into a situation where they must reveal information that their abusers may later use against them. Moreover, couples or family counseling may create opportunities for abuse by physically bringing the abuser to the same location as an intimate partner. Finally, where the abused person is expected to work cooperatively to resolve the difficulties in the relationship, the abuser may feel justified in using abuse as "punishment" when the couple's difficulties continue; indeed, many domestic violence victims report assaults following couples therapy sessions.

For similar reasons, many researchers assert that mediation, community dispute resolution and arbitration are not appropriate when domestic violence is present. Because these interventions require equal bargaining power between the parties, they cannot operate fairly in situations involving domestic violence, where the abuser is in control. Furthermore, domestic violence cannot be a subject for negotiation or settlement between the abuser and an intimate partner because the partner has no responsibility for changing the abuser's behavior. This is particularly true where the abuse rises to a criminal level; mediation between a crime victim and perpetrator is just as inappropriate in cases involving domestic violence as it is in cases involving stranger violence.

C. Illness-based Violence

Most researchers regard domestic abuse as a learned, chosen pattern of behavior, rejecting the notion that it is a form of psychological or biological illness over which the abuser lacks control. In some cases, however, domestic violence may be the product of a mental illness such as psychosis or Alzheimer's disease. Unlike cases where the violence is learned, chosen behavior, these cases truly involve a loss of control by the abuser. Illness-based violence can be distinguished from learning-based violence in several ways:.

- The perpetrator of illness-based violence does not usually select a particular, consistent victim; instead, abuse is directed at any person present when the violent impulses arise.
- Illness-based violence is often accompanied by other symptoms of disease, such as changes in speech or gait, or delusional thinking.
- Poor recall of the abuse does not necessarily indicate illness-based violence. Abusers who are not rnental1y ill often deny or minimize their behavior.

1.5 Understanding the Abuser -The Potential for Lethality

This section wi1l explore some common characteristics of domestic abusers, as well as factors that are often present in situations when an abuser is more likely to kill or inflict serious physical harm.

A. Characteristics of the Abuser

Domestic violence occurs in all social groups, without regard to the parties' racial, ethnic, economic, religious, educational, professional, or social backgrounds. It is not restricted to the ranks of the impoverished, unemployed, or substance-dependent. Because it often occurs within the privacy of the home, domestic violence may be well-hidden from outside observers, including family members who are not living in the household where the abuse occurs. Indeed, many abusers appear to be devoted to their families, and have positive characteristics that mask the injuries they inflict.

Although there is no "typical" abuser, domestic violence perpetrators commonly exhibit certain characteristics. Some of these characteristics include:

- Dependency and jealousy
  Many abusers are extremely jealous and possessive of their intimate partners. Possessive abusers are emotionally dependent on their partners, which makes them susceptible to a number of conflicting emotions, including fear of abandonment, and anger at their dependence. In the context of these feelings, an abuser's behavior may be seen as an effort to prevent abandonment, or as a means of denying the need for the partner's companionship. Extremely jealous abusers may be so possessive that they are willing to kill their partners rather than face losing control over them.*

- Belief in men's entitlement to dominate women
  Male abusers may subscribe to a rigid ideal of men's dominant role, with the accompanying belief in men's entitlement to control persons and events in the household.*

- Isolation
  Some abusers are psychologically and socially isolated. Isolated abusers tend to be distrustful of others, afraid of intimate relationships and unable to share or recognize emotions other than anger. While they may have numerous contacts and acquaintances within the community, these tend to be superficial. An isolated abuser may have increased dependence on the intimate partner, along with the attendant jealous, possessive behavior.*

- "Jekyll and Hyde" personality
  Most abusers are not violent all the time -their intimate partners and others often describe them as charming and lovable. The loving, caring facet of an abuser's behavior can be one means of convincing an intimate partner to stay involved in the relationship after a violent incident.*

- Poor interpersonal skills
  Many abusers may appear to be charming and lovable on the surface level, especially to those outside the family. Within the family, however, they do not demonstrate the same level of interpersonal relational skills. Abusers often use anger and violence to manage conflict or express feelings. They may confuse assertiveness with aggression, and misperceive neutral communications or interactions as being threatening or insulting to them; for example, a partner's brief delay in meeting him may cause an abuser to assume that she is having an affair..

- Refusal to accept responsibility for the violence
  When confronted with their violent behavior, abusers commonly avoid responsibility by denying that it occurred, lying about it, minimizing its nature or significance, or blaming it on outside factors such as stress, drunkenness or provocation from their partners. The court may hear such statements as:
  -"It was an accident."
  -"I didn't hurt anyone -I didn't even use my fist."
  -"'The kids didn't see it."
  -"The cop didn't like me."
  -"I couldn't take the nagging anymore."
  -"I was drunk."
  -"I've been under a lot of pressure lately, and 1 lost control."
  -"She's having an affair. I just want to save my family ."
  -"I'm the real victim here."

B. Lethality Factor

Although the National Crime Victimization Survey reports that intimate partner committed fewer murders in each of the three years 1996, 1997, and 1998 than in any other year since 1976, domestic violence perpetrators still kill their victims with alarming frequency. In 1998, the Survey reported 1830 murders attributable to intimate partners (down from 3000 murders in 1976); 53% of these 1998 murder victims were killed by their spouses (down from 75% in 1976). Women are more likely than men to be the victims of domestic homicide. The Survey reports that women were nearly three out of four victims of the 1830 murders attributed to intimate partners in 1998. The percentage of female murder victims killed by intimate partners has remained at about 30% since 1976.* This deadly potential requires vigilance in all cases involving domestic violence.

Assessing the lethality of a situation involving domestic violence is difficult. Domestic violence is often unpredictable. In some cases, an abuser may not "intend." to use lethal force, but may miscalculate with fatal consequences. Lethal violence may occur unexpectedly, without any advance warning from the abuser's behavior, or it may be preceded by one or more circumstances that serve as danger signals. In the

latter case, researchers have found that certain factors can often accompany an abuser's potential for serious violence.

One such "lethality factor" that has caused particular concern is the recent separation of the couple. Research indicates that leaving a relationship will not always end the abuse; in fact, leaving an abuser may cause the violence to escalate. In a 1988 study, the U.S. Department of Justice reported that 75% of the domestic assaults reported to law enforcement agencies occurred after the victim was divorced or separated from the assailant. A more recent National Crime Victimization Survey similarly reported that between 1993-1998, divorced or separated men or women were subjected to the highest levels of intimate partner violence, as compared with married and never-married persons. (The rate of no lethal violence per 1000 divorced or separated persons was 31.9 for women and 6.2 for men. The rate per 1000 married persons was 2.6 for women and 0.5 for men. The rate per 1000 never-married persons was 11.3 for women and 1.6 for men.)

> Note: More research is needed on the role that ending a relationship plays in increasing the risk or intimate partner violence. Although it reported higher levels of violence for divorced or separated persons, the National Crime Victim Survey noted that its data reflected a person's marital status at the time of the survey interview. Thus, it was not possible to determine from the data whether a person was separated or divorced at the time of victimization or whether the separation or divorce came after the violent incident. Questions about "separation violence" are further complicated by the fact that the "end" of a relationship is more a matter of interpretation than of objective reality; some individuals may equate the "end" of a relationship with a formal dissolution or physical separation, while others may consider a relationship to have "ended" at some previous point.

Other lethality factors in addition to separation are noted in the following list. While it is impossible to predict with certainty what a given abuser will do, the presence of the following factors can signal the need for extra safety precautions -- the more of these factors that are present in a situation, the greater its danger.

- The abused partner (who is familiar with the abuser's patterns of behavior) believes the abuser's threats may be lethal.
- The abuser threatens to kill an intimate partner or other persons.
- The abuser threatens or attempts suicide.
- The abuser fantasizes about homicide or suicide.
- Weapons are accessible, and/or the abuser has a history of using weapons.
- The abuse involves strangling, choking, or biting the intimate partner.
- The abuser has easy access to the intimate partner or to the intimate partner's family.
- The couple has a history of prior calls to the police for help.
- The abuser exhibits stalking behavior.
- The abuser is jealous and possessive, or imagines the intimate partner is having affairs with others.
- The abuser is preoccupied or obsessed with the intimate partner.
- The abuser is isolated from others, and the intimate partner is central to the abuser's life.
- The abuser is assaultive during sex.
- The abuser makes threats to the intimate partner's children.
- The abuser threatens to take the intimate partner hostage, or has a history of hostage-taking.
- The severity or frequency of violence has escalated.
- The abuser is depressed or paranoid.
- The abuser or intimate partner has a psychiatric impairment.
- The abuser has experienced recent deaths or losses.
- The abuser was beaten as a child, or witnessed domestic violence as a child.
- The abuser has killed or mutilated a pet, or threatened to do so.
- The abuser has started taking more risks, or is "breaking the rules" for using violence in the relationship (e.g., after years of abuse committed only in the privacy of the home, the abuser suddenly begins to behave abusively in public settings).
- The abuser has a history of assaultive behavior against others.
- The abuser has a history of defying court orders and the judicial system.
- The intimate partner has begun a new relationship.

- The abuser has problems with drug or alcohol use, or assaults the intimate partner while intoxicated or high.

One researcher has noted that the pattern of risk factors is not the same across offenders, and makes a connection between a male abuser's childhood experiences and his patterns of abuse:

"Some offenders are violent only at home while others attack non-family members. The particular childhood experiences seem to be related to differing patterns of abuse and personality. In one pattern, severe physical abuse in childhood is associated with anti-social personality, a 'criminal lifestyle', a lack of remorse, violence inside and outside the home, substance abuse, and severe violence against a partner. In a second pattern, severe loss or emotional rejection in childhood is associated with borderline personality traits, fear of abandonment, jealousy, severe psychological abuse of one's partner, depression, and suicidality. This may be the type of offender who is most likely to stalk and kill his partner after separation, sometimes killing himself as well. In a third pattern, childhood trauma is not evident and violence is restricted to the home. The men appear to be over-controlled...and perfectionistic with themselves and others. They are the least likely to be severely violent and have less rigid sex role attitudes than the other types. Typology research has helped to identify the men most likely to be severely violent during and after the relationship. In addition, there are a growing number of assessment tools for uncovering indicators of lethality. The most widely used is the Danger Assessment Instrument, but others are being developed and validated, such as the Spousal Assault Risk Assessment (SARA) instrument." Saunders, Domestic Violence Perpetrators: Recent Research Findings and Their Implications for Child Welfare, 3 Mich Child Welfare Law J 3, 4 (Fa11. 1999).

1.6 Abusive Tactics

An abuser's primary motivation is to maintain control over an intimate partner. Abusers are master manipulators, who employ physical assault in conjunction with other tactics to achieve their objective. Abusers' tactics have been compared to the brainwashing tactics used against prisoners of war, which include isolation, threats, occasional indulgences, demonstrations of power, degradation, and enforcement of trivial demands. Abusers may employ similar patterns of physical, sexual, financial, and emotional coercion to control their intimate partners. These tactics prevent abused persons from leaving a relationship. In addition to physical assaults or threats, abusers' control tactics may include:

Emotional abuse

Emotional abuse may consist of isolating an intimate partner from family and friends, making degrading remarks, blaming the partner for the abuse, constantly monitoring the partner's activities, stalking, playing "mind" games, "making and enforcing extensive, egregious rules, and threatening suicide if the partner leaves the relationship.

Using children as vehicles for abuse

Abusers frequently involve their partners' children in their efforts to assert control. Some abusers kidnap, sexually abuse, or physically harm their partners' children, or threaten to commit one of these acts. Others initiate or threaten to initiate court proceedings to remove the children from their partners' homes, or use court-ordered parenting time as an opportunity to harass their partners. Abusers may also force children to act as informers, or to deliver threats.

Controlling the finances

An abuser may maintain control in a relationship by limiting a partner's access to the couple's money, or by preventing the partner from participating in job training, or from getting or keeping a job. This interference with economic independence makes financial abuse a major obstacle to leaving a relationship.

Sexual abuse

This form of abuse includes rape, forced sexual acts, verbal degradation, forced sexual contact in front of the children, threats to find another partner if sex is refused, and injury to the sexual areas of the body. Sexual abuse may also include the abuser's refusal to take appropriate precautions against unwanted pregnancy or sexually transmitted diseases.

Abusers may extend their controlling tactics to situations within the courtroom. Such tactics may be employed before, during, and after court proceedings to demonstrate control, and to manipulate the court's response to the abuser. The following list gives examples of abusive tactics that court personnel may encounter.

- Physical assaults or threats of violence against the abused person, those providing refuge, and others inside or outside the courtroom.
- Threats of suicide.
- Threats to take the children.
- Harassment intended to coerce the abused person to dismiss proceedings, or to recant previous testimony.
- Following an intimate partner in or out of court.
- Sending an intimate partner notes or "looks" during proceedings.
- Bringing family or friends to the courtroom to intimidate the abused person.
- Long speeches about how an intimate partner "made me do it."
- Statements of profound devotion or remorse to the intimate partner and to the court.
- Repeated requests for delays in proceedings.
- Requests for changes of counsel or failure to follow through with appointments of counsel.
- Intervening in the delivery of information from the court to thc abused person so that the abused person will be unaware of when to appear in court.
- Requests for mutual orders of protection as a way to continue control over the abused person and to manipulate the courts.
- Continually testing the limits of parenting time or support arrangements, e.g., arriving late or not appearing at appointed times.
- Threats and/or initiation of custody fights to gain leverage in negotiations over financial issues.
- Assertions that the abusive individual is actually the "victim" in the case.
- Initiating retaliatory litigation against the abused person or others who support the abused person.
- Enlisting the aid of parent rights groups to verbally harass the abused person (and sometimes courts) into compliance with demands.
- Using any evidence of the effects of the abuse as evidence that the abused person in an unfit parent.

The court can take steps to intervene in abusive courtroom tactics, as follows:

- Develop a safe waiting area in the courthouse.
- Call cases involving domestic violence as early as possible on the court calendar.
- Communicate that the court takes evidence of domestic violence seriously.
- Require the abusive party to remain in thc courthouse until the abused party has left the building.
- Be alert for multiple court actions or orders concerning the same parties.
- Met separately with the parties to a relationship where domestic violence is present.

1.7 Effects of Abuse

Women who are subject to domestic abuse exhibit no specific "personality profile" that differentiates them from other women. Abused individuals may display some of the same behaviors as survivors of other life threatening situations or trauma, however, Signs of trauma include:

- Shock.
- Disbelief.
- Fear
- Withdrawal.
- Confusion.
- Panic or excitement
- A belief that "everything will be okay".
- Minimization or denial of the traumatic events, or reluctance to discuss what has happened.
- Rationalizing or taking responsibility for what has happened.

This section will explore some of the strategies that abused persons may employ in order to cope with or survive the trauma they suffer. It will also discuss the impact that domestic violence may have on a person's interactions with the court system.

A. Coping and Survival Strategies

Persons who are subject to domestic violence use active strategies for surviving the experience. Strategies for surviving domestic abuse vary, depending upon the abused person's individual personal characteristics and the nature of his or her social environment. Some may appear to be no different from those not experiencing violence, having adopted behavior that conceals the abuse they suffer. Others may engage in behavior that appears illogical or erratic. Most researchers do not believe that persons who are subject to domestic abuse suffer from masochism or other types of psychological disorders; rather, researchers agree that the behavior exhibited by some abused persons is better understood as a normal survival or coping response to the abuse.

The following discussion lists common survival or coping strategies that abused persons may display:

Minimizing or denying the violence

Like abusers, some abused persons may minimize or deny the violence in their lives. They may deny or minimize the violence in the abuser's presence or in public settings (such as court proceedings) in order to protect themselves from further retaliatory violence. Abused persons may also minimize their experiences with violence or their emotional responses to it to survive the emotional trauma they suffer.

Taking responsibility for the violence

Instead of objecting to the violence against them, some abused persons may blame themselves for it. In doing so, these individuals focus on their own perceived failings as a cause of the abuse, rather than on the abuser's choice to use violence. This attitude may arise because the abuser has convinced the abused person to take the blame, or because the abused person has submitted to the abuser's exercise of control in the relationship.* Taking responsibility for the violence may give some victims a sense of control over it. These victims believe that if they change the behavior that seems to be causing the violence, it will stop.

Using alcohol or drugs

Persons subject to abuse may use alcohol or drugs as a means of numbing the effect of the violence; one researcher notes that substance abuse problems are likely to be consequences of abuse rather than precursors.* If the abuser is alcoholic or drug dependent, the intimate partner may be forced to join in the use of these substances to prevent abuse. Some abused persons receive prescription medication from their physicians as a means to cope with the anxiety resulting from the abuse. These medications may impair the ability to judge the dangerousness of an abusive situation or to seek protection.

Seeking help

Many people who suffer domestic abuse actively seek help, often without success. Some researchers have found that a person's efforts to seek help tend to increase with the danger to the person and his or her children. Justice system professionals may not recognize an individual's efforts to obtain help from sources outside the “system”, however, these “informal” sources of assistance may be the first to which an abused individual turns. It is important to note that an individual’s help-seeking behavior often depends upon the responses they have received or observed in the past.

Self defense

Persons subject to domestic abuse often act to defend themselves or their children. A recent analysis of data on crimes by current or former spouses, boyfriends, or girlfriends published by the Bureau of Justice Statistics reported that 77% of female victims of non-lethal intimate violence actively defended themselves. Of these, 43% tried to escape from the offender, called the police or other help, or used other non-confrontational means of self-defense. Thirty-four percent confronted the offender by struggling, shouting, chasing or other means without a weapon (30%) or with a weapon (4%).

Remaining in the relationship

Leaving any important relationship is difficult. Leaving an abuser can have serious physical consequences for the abused person. In response to their partners’ efforts to leave, many abusers will escalate the physical violence -often to lethal levels -as they seek to reassert control in the relationship. When seen in this light, the seemingly illogical decision to stay with an abuser makes sense as a survival tactic.

The threat of death or serious injury upon separation from the abuser is not the only obstacle to leaving a relationship where domestic violence is present. Individuals trapped in such relationships often face other formidable barriers to escape, including:

-Concern for the children's welfare.
-Lack of employment skills, or financial dependence on the abuser.
-Lack of housing upon leaving the relationship.
-Inability to afford legal assistance with divorce, custody, or protection order proceedings.
-Fear of the court system's intervention.
-Fear of losing custody of the children if the violence is reported or revealed in divorce proceedings. Some abusers deliberately give their partners misinformation about their legal rights to prevent them from seeking legal recourse.
-Isolation from the social or family connections that could otherwise provide support after leaving the relationship.
-Acceptance of the blame for the abuse; attempts to change in the hopes that it will stop.
-Belief in the abuser's expressions of remorse and promises to change.
-Lack of self-confidence caused by believing statements issued by the abuser such as, “You are worthless without me,” or “Nobody cares about you but me.”
-Religious or cultural constraints. If a woman believes that her male partner must be the dominant figure in her household, she may regard his abuse as an acceptable extension of his dominance. Under this family concept, she may believe that her efforts to escape are inappropriate. She may also believe that if she ends the relationship in order to escape the abuse, she will lose her connection with her religious or cultural community.

B. Survival and the Court System

Efforts to survive or cope with domestic violence may appear in many forms in civil court proceedings. An abused individual may:

- Publicly agree with the abuser's denial or minimization of a violent incident.
- Avow love for the abuser.
- Make statements supporting the abuser.
- Flee the jurisdiction, along with the children.
- Abandon proceedings.
- Agree to unfair property settlements or support provisions.
- Agree to what outsiders see as unsafe provisions for child custody or parenting time.

Although the foregoing actions may seem illogical to observers outside of a relationship, they make sense if they are regarded as survival tactics and normal human responses to trauma. Persons subject to domestic violence know their abusers better than anyone else, and they choose active strategies to minimize injury based on past success. Although the strategies above may not be to the long term advantage of an abused person, many such individuals are so involved in a day-to-day struggle to preserve their own lives and the lives of their children that they cannot focus on the long range effects of the violence or on the task of forging a new life apart from the abuser. Accordingly, they are likely to view a court proceeding only in terms of its immediate effect upon their safety .The following discussion explores some of the specific concerns that affect domestic violence victims during court proceedings.

1. Coercion

Abused individuals may be unable to protect their interests in court proceedings due to a legitimate fear of death or injury at the hands of an abuser. Abusers frequently coerce their intimate partners to remain silent about the violence, either by injuring them so that they cannot speak, or by threatening them with death or injury. Coercive threats may also extend to others who associate with an abused person. The following factors may indicate coercion:

- The abused person appears in court with the abuser to request that court proceedings be terminated
- One attorney appears in court to act on behalf of both the abuser and the abuser's intimate partner.
- Thc abuser has a history of past violence.

If any of these factors is present (or any other suspicious circumstance), the Advisory Committee for this Resource Book recommends that the court obtain more information about the parties' situation before taking action.

2. Uncertainty About the Court's Intervention

An abused person's past experience with the court system may contribute to the perception that it will neither stop the violence nor offer adequate protection from injury. The following factors can erode the confidence of persons who are subject to abuse:

- Procedural delays.
- Complex court proceedings.
- Discourteous court employees.
- Misinformation about the court system given by the abuser, uninformed service providers; or others.
- Vague, easily manipulated court orders that provide opportunities for further abuse.
- Court employees' disbelief that abuse is occurring.
- Court orders that require the abused person to cooperate with the abuser or to have regular physical contact with the abuser.
- Court orders that reward abusive tactics (e.g., awarding custody of children to an abusive parent because the abused parent cannot stop the abuse, rather than requiring the abusive parent to stop the abuse as a prerequisite to gaining access to children).
- Conflicting orders in criminal, personal protection, and civil court proceedings.
- Recurrence of violence despite the issuance of court orders restraining the abuser.
- Failure of law enforcement officers to arrest abusers who violate court restraining orders.
- Failure of prosecutors to prosecute domestic violence offenses.
- Failure of courts to impose appropriate sanctions for domestic violence offenses.
- Court orders that punish protective actions taken by the abused person, characterizing these actions as antagonistic or "unfriendly" to the abusive party.

A court can address the fears of abused persons in a number of ways:

- To the extent possible, maintain the confidentiality of information in court documents that would identify the abused person's whereabouts, if that person is in hiding from the abuser and there is a reasonable apprehension of acts or threats of physical violence or intimidation by the abuser.
- Provide for expedited proceedings in cases involving domestic violence.
- Provide domestic violence training for court personnel.
- Provide clear information about court proceedings to unrepresented parties.
- Craft specific, readily-enforceable orders with provisions that address the abused person's safety concerns.
- Craft orders that are consistent with orders issued in criminal and personal protection proceedings.
- Craft orders that hold the abuser accountable for the abuse.
- Work with other units of the court system and with social service agencies to develop a clear, coordinated policy for situations involving domestic violence.

1.8 Domestic Abuse and Children

The National Crime Victimization Survey reports that between 1993 and 1998, children under age l2 lived in 43% of the households where domestic violence occurred. This section explores how children are exposed to adult domestic abuse, and how it affects them.

A. How Children Are Exposed to Adult Violence

Children are exposed to adult domestic violence in various ways:

- They witness it.
- They are used by the abuser to maintain control in the adult relationship.
- They suffer physical consequences that accompany the adult violence.

1. Witnessing the Violence

Although parents often minimize or deny the presence of children during violent incidents, studies show that up to 90% of children are aware of domestic violence when it occurs in their households. Children perceive the adult violence in their homes in a variety of ways. They may be eyewitnesses to all or part of a violent incidents, or they may catch a fleeting glance of it. They may hear the sounds of abuse -the screaming or crying, the breaking glass, the impact of the blows. Children can also see a parent's tears,

along with the blood, bruises, torn clothing, splintered furniture, and broken glass that evidence abuse after an incident has occurred. Finally, children notice the tension between the adults -they may see their mother jump when her abuser's car pulls in the driveway, or when thc abuser enters the room. *

2**. Using Children to Maintain Control in the Adult Relationship**
A common tactic of domestic abusers is to use the children in the household to control their intimate partners. Domestic abusers are likely to:

- Deliberately abuse their intimate partner in the presence of the partner's children.
- Interrogate the children about the abused parent's activities.
- Force the abused individual to always be in the company of a child.
- Take the child away after a violent episode to prevent the abused individual from fleeing.
- Threaten violence against the child, or against a pet or object that is important to the child.
- Encourage the child to participate in the physical or emotional abuse of the abused individual.
- Isolate the child along with the abused individual.
- Manipulate the children through gifts or promises of activities.
- Coerce the abused individual to remain in the relationship for the sake of the children.

Because domestic violence often escalates when the abused individual attempts to leave the relationship, it should not be assumed that separation from the abuser will be sufficient by itself to protect the children from the violence.* The following abusive tactics may be employed after a separation:

- Engaging in lengthy battles over custody or parenting time.
- Detaining or concealing children.
- Abducting the children, or holding them hostage.
- Using parenting time to interrogate the children about the abused parent, or to blame the abused parent for the separation.
- Using parenting time to abuse the children.
- Demanding unlimited access to the children.
- Making abusive contacts with the abused parent’s home or work place under the pretext of arranging for access to children.

3. Physical Consequences of Violence for Children
Children living in homes where domestic violence occurs are at increased risk for suffering bodily injury. Such injury may be unintentional, occurring during the adult violence. Some children are harmed when they intervene to defend or protect a parent. Assaults on parents who are holding young children in their arms often result in injury to the children as well as the parents. Children can also be struck by furniture or other objects thrown by adults during an assault.

Adult domestic violence can have other devastating physical consequences for children beyond bodily injury. Domestic violence can deprive children of housing, schooling, or medical care. Flight from domestic violence often leads to homelessness among children and their abused parents, and is a primary reason why adolescents run away from home. * Because abusers sometimes find partners who are in hiding by obtaining address from children’s school or health care records, some abused individuals are reluctant to enroll their children in school or to seek medical care for them out of fear that the abuser will discover their whereabouts.

Children in homes where domestic violence occurs can also face dislocation at the hands of the court or child protection system, which may remove them from an abused parent's care -or terminate parental rights -due to a “failure to protect” them. Some domestic violence experts assert that the removal of children from the home on this basis is often founded on faulty assumptions, namely:

- The abused parent is principally responsible for the safety of the children. This assumption reinforces abusive behavior by placing the blame for it on the abused individual; thus allowing the abuser to escape responsibility for the negative consequences of the violence.

- The abused parent has the power and resources to protect the children. This assumption overlooks abusers' control of the choice to behave violently toward their intimate partners, and their deliberate use of physical and psychological tactics to incapacitate their intimate partners.

- The abused parent has not tried to protect the children. An abused person's efforts to protect children may have been ineffective (or perceived as ineffective) because they were met by a less-than-helpful systems response, or did not involve a systems response.

- An allegation of failure to protect may induce an abused individual to leave the abuser. This assumption does not account for the fact that the abused individual and the children may be at increased risk after separating from the abuser.

Domestic violence experts suggest that a more effective way to protect children from adult violence is to protect the abused parent by intervening in the abuser's patterns of power and control and insisting that the abuser take responsibility for the violence. Balanced against this consideration, however, is the reality that some battered parents are so napped in their circumstances that they cannot adequately care for their children. To address these dual concerns, Michigan's Child Protective Services has promulgated a policy and best practices guideline that states:

> "Prior to substantiating neglect against a non-offending caretaker of domestic violence, based on failure to protect a child, the worker must assess whether the child was harmed or was/is at imminent risk. If the child was not harmed and/or is not at imminent risk, a substantiation of neglect based on failure to protect will not be made against the non-offending caretaker." Cited in Cain and Hagen, Protecting Children and Their Mothers, 3 Mich Child Welfare Law J 12 {Fall, 1999).

Note: On the connections between domestic violence and child abuse, some researchers have noted that men who batter are at a "fairly high risk to physically abuse their children, " while battered women are "much less likely than their partners to abuse their children (50% vs. 25% in one national study) and their anger toward the children decreases when they are out of a violent relationship." Saunders. supra, p 5. See also Cain and Hagen, supra, p 11, noting studies showing that 400/0 to 60% of homes with wife-abuse also have child abuse present in the home, and that 30% to 59% of mothers of abused children are battered women.

Under Michigan's Child Protective Services policy and best practices guidelines, domestic violence in and of itself does not constitute child maltreatment:

> "A complaint in which the only allegation is domestic violence is not a sufficient basis for accepting the complaint for investigation. A complaint which alleges domestic violence must include information indicating that the domestic violence is causing harm or threatened harm to the child in order for the complaint to meet statutory parameters for CPS involvement…In situations where a child is a witness to domestic violence and there are resulting observable behavioral changes in the child, all investigation should be conducted." Cited in Cain and Hagen, supra. p 14.

The Child Protection Law defines child abuse to include harm or threatened harm to a child that occurs through "non-accidental physical or mental injury; sexual abuse; sexual exploitation; or maltreatment.'. MCL 722.622(e); MSA 25.248(2). The statue does not define "physical or mental injury" or maltreatment." For cases discussing the question whether domestic violence subjects a child to physical or mental harm, see In re Miller .182 Mich App 70.80 (1990) ('.Evidence of violence between parents in front of the children is certainly relevant to showing...that the home is an unfit place for children by reason of criminality or depravity"), and in re Sours Minors, 459 Mich 624, 63~36 (1999) (trial court was not justified in terminating the mother's parental rights because her child was injured in an altercation between the parents, where the mother had separated from the father and there was not sufficient evidence that the mother's new partner was abusive).

B. Effects of Adult Violence on Children

Whether they witness the abuse or are abused themselves, children suffer from involvement with adult domestic violence. In addition to causing physical injury, domestic violence can have a profound impact on children's core beliefs about themselves, those in authority, and those with whom they have intimate relationships. The trauma and anxiety it produces can impede children's development by preventing them from forming healthy emotional attachments with others, and derailing their efforts to learn basic social skills. This devastating emotional, cognitive, and behavioral damage can be manifested even after a child reaches adulthood. The following discussion explores some specifics of these effects.

Emotional Effects

Domestic violence terrorizes children. Once a violent incident has occurred, children may experience pervasive anxiety mat another attack is imminent. They may feel rage at both the abuser and the abused parent, or confusion, guilt, shame and he1plessness. If the family is separated as a result of the abuse, children often experience grief and depression.

Cognitive Effects

Domestic violence teaches children that violence is effective behavior. Children in homes with a heterosexual male abuser may learn that men are aggressive and domineering, while women are powerless and deserving of abuse. They may learn that they and their mothers are worthless, and that adults cannot be trusted. Children exposed to domestic violence may learn to equate caring with abuse. They frequently believe that they are to blame for the abuse, particularly if some of the parental conflict involves child care issues. This belief is reinforced when the abuser tells the children that the abused parent deserves the abuse, or that it is occurring for the family's own good. If children are threatened or punished when they disclose the violence in their homes, they may learn to be deceptive and indirect in their communication with others.

Behavior Effects

Domestic violence can cause developmental delays in children. Children in households where violence occurs may experience delayed development of speech, motor, and cognitive skills. Anxiety over their family situation may interfere with their ability to function in school, or cause learning disabilities. Conversely, domestic violence may cause a child to "over-achieve." Children in homes where domestic violence is present may also develop complaints such as insomnia, diarrhea, bedwetting, or frequent illnesses. Some children experience eating or sleeping disorders, withdrawal, over-compliance, clinginess, aggression, destructive rages, detachment, regressive behavior, a fantasy family life or thoughts of suicide.

A few children turn to violent behavior themselves as a result of observing adult domestic violence. Sixty-three percent of all males between ages 11 and 20 who are imprisoned for homicide in this country killed their mother's barterer. An Oregon study reported that 68% of the delinquent youth in treatment programs had witnessed their mother's abuse and/or had been abused themselves. These youth had committed such crimes as arson, assault, rape, and murder. Ninety percent of the youth within the group were abusing alcohol, and 89% were abusing drugs. A 1985 Massachusetts study found that children who witnessed the abuse of their maternal caretaker were:

-Twenty-four times more likely to commit sexual assault crimes;
-Fifty percent more likely to use drugs and/or alcohol.
-Seventy-four percent more likely to commit crimps against another person, and,
-Six times more likely to commit suicide.

Effects on Adult Behavior

Children carry the effects of domestic violence into their adult lives. The failure to acquire academic or interpersonal skills in childhood may adversely impact an adults' abilities to maintain a job or an intimate relationship. Moreover, male children who have witnessed domestic violence in their homes are at increased risk for perpetuating abuse in the families they form as adults. In one study, men who had witnessed domestic violence were three times more likely to hit their wives than those who had not.

1.9 Chan -The Power and Control Wheel

The Domestic Abuse Intervention Project of Duluth, Minnesota, has devised the following Power and Control Whee1 chart, which illustrates the dynamics of domestic violence as a wheel with spokes symbolizing the control tactics exerted in various aspects of the relationship.